

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

MILTON BROWN,

Plaintiff,

vs.

ELECTRIC POWER BOARD OF
CHATTANOOGA,

Defendant,

and

COMCAST OF THE SOUTH,

Defendant/Third-Party Plaintiff,

vs.

CINCINNATI INSURANCE COMPANIES,

Third-Party Defendant.

DOCKET NO. 12C872

DIVISION I

FILED

NOV 22 2013

Clerk, U. S. District Court
Eastern District of Tennessee
At Chattanooga

THIRD-PARTY COMPLAINT
AGAINST CINCINNATI INSURANCE COMPANIES

COMES NOW COMCAST OF THE SOUTH, Defendant in the above-styled action,
who, proceeding as a Third-Party Plaintiff, shows the Court the following:

1.

Cincinnati Insurance Companies is subject to the jurisdiction of this Court.

2.

Third-Party Defendant Cincinnati Insurance Companies (hereinafter "Cincinnati"), is a
corporation doing business in the State of Tennessee and may be served with the Summons and
copy of the Third-Party Complaint by Acknowledgment of Service, to-wit: John Neal, Esq.,

MOORE INGRAM
JOHNSON & STEELE
Limited Liability Partnership
Emerson Overlook
1000 Roswell Street
Atlanta, GA 30060
(770) 429-1499
FAX (770) 429-8631

Exhibit 2

P.O. Box 51930, Knoxville, TN 37950.

3.

Plaintiff, Milton Brown (hereinafter "Plaintiff"), filed a Complaint, an Amended Complaint and a Second Amended Complaint against Defendant Comcast of the South (hereinafter "Comcast"), true and accurate copies of which are attached hereto as Exhibit "A." Copies of all other pleadings filed prior to the filing of this Third-Party Complaint are attached hereto as Exhibit "B." Cincinnati is or may be liable to Comcast for all or part of the claim as set forth in Plaintiff's Amended Complaint.

4.

On March 29, 2011, Cincinnati Insurance Companies issued a Certificate of Insurance naming Comcast as an additional insured. A true and accurate copy of this Certificate of Insurance is attached hereto as Exhibit "C."

5.

Pursuant to this Certificate of Insurance, Cincinnati Insurance Companies agreed to treat Comcast as an insured under its policy of insurance issued by it to Gaddcom.

6.

On March 19, 2013, Comcast tendered this case to Gaddcom for defense and indemnification, as shown in Exhibit "D" attached hereto.

7.

On April 17, 2013, Cincinnati Insurance Companies declined that tender, as shown in Exhibit "E" attached hereto.

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8.

Cincinnati Insurance Companies has breached its agreement to treat Comcast as an additional insured and hold it harmless from any and all claims alleged in Plaintiff's Complaint in this action.

9.

Cincinnati Insurance Companies is liable to Comcast for any amounts by which Comcast is found liable to Plaintiff in this action and for all of Comcast's cost of defense, including but not limited to attorneys' fees, expert fees and costs of litigation from March 19, 2013, through the conclusion of this case.

WHEREFORE CLAUSE

WHEREFORE, Comcast prays for a judgment against Cincinnati Insurance Companies in the amount of any adjudgment against it in favor of Plaintiffs in this action.

Respectfully submitted, this 25 day of July, 2013.

MOORE INGRAM JOHNSON & STEELE, LLP



WILLIAM R. JOHNSON, BPR No. 19925
ALEXANDER T. GALLOWAY, BPR NO. 21966
Attorney for Defendant/Third-Party Plaintiff
Comcast of the South

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OF COUNSEL:
JOHN L. SKELTON, JR.[†]

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March 19, 2013

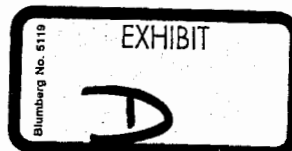
Yousef A. Hamadeh
Chambliss, Bahner & Stophel, P.C.
605 Chestnut Street, Suite 1700
Chattanooga, TN 37450

Re: Milton Brown v. Electric Power Board of Chattanooga and Comcast Cable Communications, LLC; Hamilton County Circuit Court; Docket No. 120872

Dear Mr. Hamadeh:

Pursuant to our recent telephone conversation, enclosed is a copy of a Complaint filed against Comcast by Milton Brown. As you can see, this Complaint alleges that Mr. Brown was injured on July 22, 2011, when he came in contact with an energized cable line. The Complaint alleges that some of the lines in question were under the direct control of and should have been maintained by Comcast.

Also enclosed is a copy of your vendor agreement. As you know, pursuant to paragraph 17 of that agreement, Gaddcom, Inc., agreed to indemnify and hold Comcast harmless from any actions or inactions concerning the performance of its work. This claim falls squarely within that indemnity agreement. Additionally, pursuant to paragraph 14 of the vendor agreement, Gaddcom is required to maintain \$1,000,000 in liability insurance and have Comcast named as an additional insured to assure the terms of the indemnity agreement are adhered to by Gaddcom.



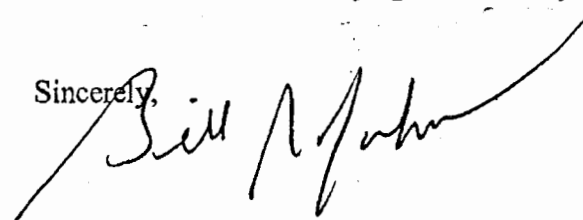
Yousef A. Hamadeh

March 19, 2013

Page 2

We request that you or your client immediately forward this information to Gaddcom's insurance company, have them assign counsel, and ask counsel to contact me, so that I can discuss the transfer of this matter pursuant to the terms of the indemnity agreement. If you have any questions, feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Johnson", written over a horizontal line.

William R. Johnson

JLS:dkc

Enclosures

cc: Clifford W. Gadd w/o enclosures



The Cincinnati Insurance Company ■ The Cincinnati Indemnity Company
The Cincinnati Casualty Company ■ The Cincinnati Specialty Underwriters Insurance Company
The Cincinnati Life Insurance Company

Lisa Sucher
Claims Specialist

April 17, 2013

John L. Skelton, Jr.
Moore Ingram Johnson & Steele
326 Roswell Street
Marietta GA 30060

RE:	Insured:	Gaddcom Inc, Southeastern Fiber Optic Services LLC, Midland
	Claim No.:	1958254
	Plaintiff:	Milton Brown
	Loss Date:	7/22/2011

Dear Mr. Skelton,

Per our discussion, we are in the process of completing our investigation of the above claim that we were notified of on March 23, 2013 by our insured, Gaddcom, Inc. Our insured was hired by Comcast Cable Communications, LLC to assess and complete repairs to numerous downed poles and cable lines in the Hamilton County area following the April 27, 2011 tornado. Gaddcom, Inc. subcontracted the work to other contractors which we are now identifying and placing on notice. .

At this time, we are not in a position to accept the defense of Comcast. Once our investigation is complete and we receive responses from these contractors to our request for transfer of the claim pursuant to the terms of our indemnity agreements, we will respond to you.

If you have any questions, please contact me at (423) 899-2509. Also, if you have or receive any additional information that would aid in our investigation, please forward it to me.

Sincerely,

Lisa Sucher

Lisa Sucher
Claims Specialist

cc: Yousef A. Hamadeh, Chambliss, Bahner & Stophel, P.C.
Clifford W. Gadd, Gaddcom, Inc.



CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for all parties in the foregoing matter with a copy of **THIRD-PARTY COMPLAINT AGAINST CINCINNATI INSURANCE COMPANIES** by depositing a copy of same in the United States Mail with postage properly affixed thereon addressed as follows:

John T. Rice, Esq.
John T. Rice, P.C.
P. O. Box 4326
Chattanooga, TN 37405


Larry L. Cash, Esq.
Miller & Martin, PLLC
Suite 1000 Volunteer Bldg.
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Kathryn S. King
EPB Legal Services Division
P.O. Box 182255
Chattanooga, TN 37422

John Neal, Esq.
P. O. Box 51930
Knoxville, TN 37950

This 25 day of July, 2013.

MOORE INGRAM JOHNSON & STEELE, LLP


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CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for all parties in the foregoing matter with a copy of **COST BOND** by depositing a copy of same in the United States Mail with postage properly affixed thereon addressed as follows:

John T. Rice, Esq.
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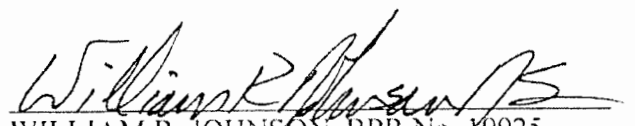
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John Neal, Esq.
P. O. Box 51930
Knoxville, TN 37950

This 30 day of July, 2013.

MOORE INGRAM JOHNSON & STEELE, LLP


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